

1 Michael R. Williams, State Bar No. 192222

2 mwilliams@bienertkatzman.com

3 Ali Matin, State Bar No. 268452

4 amatin@bienertkatzman.com

5 BIENERT | KATZMAN PC

6 903 Calle Amanecer, Suite 350

7 San Clemente, California 92673

8 Telephone: (949) 369-3700

9 Facsimile: (949) 369-3701

10 Attorneys for Nonparty

11 Bienert | Katzman PC

12 IN THE UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 In re:

15 Eagan Avenatti, LLP,

16 Debtor.

Case No. 8:18-cv-01644-VAP-KES

**BIENERT | KATZMAN PC'S
RESPONSE TO JUDGMENT
CREDITOR JASON FRANK LAW,
PLC'S MOTION TO COMPEL
COMPLIANCE WITH SUBPOENA**

1 Nonparty Bienert | Katzman PC (“BK”) hereby responds to Jason Frank Law, PLC’s
 2 (“JFL”) Motion to Compel Bienert | Katzman PC to Comply with Subpoena (“Motion”), as
 3 follows:

4 On April 2, 2019, JFL served a subpoena on BK, seeking “[a]ll checks, wire transfers
 5 or other documents reflecting any payments or retainers Bienert Katzman [PC] has received
 6 related to its representation of Michael J. Avenatti” in connection with a pending criminal
 7 matter. *See* Declaration of Jason M. Frank (“Frank Decl.”) **Ex. A.**

8 On April 15, 2019, BK served objections to the subpoena based on the attorney-client
 9 privilege, Mr. Avenatti’s Fifth Amendment right against self-incrimination, and BK’s
 10 privacy rights, to the extent the subpoena sought financial information regarding the firm.
 11 Frank Decl. **Ex. B.**

12 On April 29, 2019,¹ JFL filed the Motion, seeking to enforce the subpoena and
 13 compel production of documents. The Motion states that “JFL is only seeking (a) [BK’s]
 14 retainer agreement with Avenatti; (b) any other agreements [BK] has with Avenatti or any
 15 third party to pay for [BK’s] representation of Avenatti; and (c) the payment documents
 16 (i.e., wires, checks or similar documents) reflecting payments or retainers made on
 17 Avenatti’s behalf so that JFL may determine the source of the funds.” Frank Decl. ¶ 5.

18 Mr. Avenatti is the holder of the attorney-client privilege and the Fifth Amendment
 19 right against self-incrimination. Given that the subpoena expressly seeks to invade his
 20 relationship with his attorneys and covers the same subject matters as pending criminal
 21 charges against him, Mr. Avenatti has asserted both his attorney-client privilege and his
 22 Fifth Amendment privilege in response to the subpoena. BK is a nonparty and does not
 23 represent Mr. Avenatti in this action. Therefore, BK is not in a position to advocate for
 24 those privileges on Mr. Avenatti’s behalf. Accordingly, the Court should permit Mr.
 25 Avenatti an opportunity to argue in support of his privileges.

26
 27
 28 ¹ JFL sought to have the matter heard on an *ex parte* basis, but the request was denied. Dkt.
 No. 75

1 Dated: May 7, 2019

BIENERT | KATZMAN, PC

2
3 By: 

4 Michael R. Williams

5 Ali Matin

6 Attorneys for Non-Party

7 Bienert | Katzman PC

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 903 Calle Amanecer, Suite 350, San Clemente, California 92673. I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

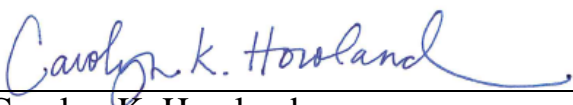
On May 7, 2019, I served BIENERT | KATZMAN PC'S RESPONSE TO JUDGMENT CREDITOR JASON FRANK LAW, PLC'S MOTION TO COMPEL COMPLIANCE WITH SUBPOENA on all interested parties in this action as stated below:

- **Michael J Avenatti**
mavenatti@eaganavenatti.com, mavenatti@eoalaw.com, jregnier@eaganavenatti.com
- **Sara L Chenetz**
schenetz@perkinscoie.com
- **Ronald S Hodges**
rhodges@shbllp.com, bbailey@shbllp.com
- **Ryan Daniel O'Dea**
rodea@shbllp.com, lgauthier@shbllp.com, sswartzell@shbllp.com
- **James R Selth**
jim@wsrlaw.net
- **Leonard M Shulman**
lshulman@shbllp.com
- **Scott Howard Sims**
ssims@lawfss.com, mnowowiejski@lawfss.com
- **Andrew D Stolper**
astolper@lawfss.com, mnowowiejski@lawfss.com, astolper@ecf.courtdrive.com

[X] **BY ELECTRONIC TRANSMISSION** - I transmitted a PDF version of this document by electronic mail to the party(s) identified above using the e-mail address(es) indicated.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 7, 2019, at San Clemente, California.


Carolyn K. Howland